

Attorney Docket No.: J3713(C)
Serial No.: 10/551,631
Filed: August 3, 2006
Confirmation No.: 5500

REMARKS

Claims 1 and 4 have been amended to specify the reported molecular weight units as Daltons. Applicants note that the first instance of a molecular weight description for the subject ABA block copolymers appears at page 4, lines 24 to 27 in connection with the polymer linking groups, where the units of molecular weight are expressed in Daltons. There being no contrary description, it is respectfully submitted that the reader would reasonably understand that other molecular weights reported in connection with these same polymers was being expressed in these same units. Entry of the subject amendment is respectfully requested.

Pursuant to the office Action of May 12, 2008, claims 1, 2 and 7 stand rejected under 35 U.S.C. 102(a) over European Polymer Journal, Vol. 39, pages 2243-2252 (2003, Batt-Coutrot et al.). Additionally, claims 1-2, 4, 7-10 and 12-15 stand rejected under 35 U.S.C. 103(a) over Batt Coutrot et al. in view of WO 2002/2857 (Frechet et al.). These rejections are respectfully traversed.

Batt-Coutot et al. published **December, 2003** (see the attached reference from the Science Direct database). Under the title and list of authors, the article is said to have been received on **July 17, 2003**, received in revised form on **July 22, 2003** and accepted on **July 29, 2003**.

The subject application entered the National Phase in the US out of PCT application number PCT/EP2004/002852 **filed March 18, 2004**, claiming priority to EP Application No. 0325063.7, filed **April 1, 2003**. It is respectfully submitted that the invention set forth in the subject claims is fully described in EP 0325063.7, which pre-dates the **December, 2003** publication date (not to mention the initial **July 17, 2003** receipt date) of Batt-Coutot et al. See, for example, the previously submitted EP priority application at page 2, line 27 to page 3, line 25, page 4, lines 3 to 9, page

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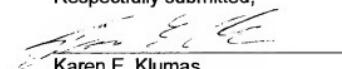
8, lined 9 to 22, page 9, lines 12 to 14 and 24 to 26, and claims 2 to 16. In short, the EP priority application establishes that the subject invention was made prior to the publication of Batt-Coutot et al. It is respectfully submitted that Batt-Coutot et al. is not properly available as a reference against the subject claims and that the rejections over Batt-Coutrot et al. and Batt-Coutrot et al. in view of Frechet et al. have been overcome.

Applicants further traverse what Office Action characterizes as the "constructive election" pursuant to which claim 17 has been withdrawn. No requirement for restriction was made in the subject application (other than the restriction requirement dated May 15, 2009 that was made after both the first action on the merits and the Office Action of May 12, 2009, and was subsequently withdrawn), nor were Applicants requested to present a species for ultimate prosecution. The block copolymer of Claim 17 is a subset of the block copolymers generically described by claim 1. Applicants respectfully submit that they should be entitled to pursue claims to such species in the same application and request reconsideration of this "constructive election".

In light of the above remarks, reconsideration and allowance of the subject claims is hereby respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



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